

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1887

Chapter 174, Laws of 2003

58th Legislature
2003 Regular Session

COMMERCIAL FISHING

EFFECTIVE DATE: 7/27/03

Passed by the House March 13, 2003
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 11, 2003
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved May 9, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1887** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 9, 2003 - 3:30 p.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1887

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Linville, Sump, Cooper, Buck and Hatfield)

READ FIRST TIME 3/10/03.

1 AN ACT Relating to commercial fisheries; amending RCW 77.70.280;
2 adding new sections to chapter 77.70 RCW; repealing RCW 77.70.380; and
3 providing a contingent expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.70 RCW
6 to read as follows:

7 The commercial fisheries buyback account is created in the custody
8 of the state treasurer. All receipts from money collected by the
9 commission under section 2 of this act, moneys appropriated for the
10 purposes of this section, and other gifts, grants, or donations
11 specifically made to the fund must be deposited into the account.
12 Expenditures from the account may be used only for the purpose of
13 repaying moneys advanced by the federal government under a groundfish
14 fleet reduction program established by the federal government, or for
15 other fleet reduction efforts, commercial fishing license buyback
16 programs, or similar programs designed to reduce the harvest capacity
17 in a commercial fishery. Only the director of the department or the
18 director's designee may authorize expenditures from the account. The

1 account is subject to allotment procedures under chapter 43.88 RCW, but
2 an appropriation is not required for expenditures.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.70 RCW
4 to read as follows:

5 (1) The commission shall collect a fee upon all deliveries of fish
6 or shellfish from persons holding: (a) A federal pacific groundfish
7 limited entry permit with a trawl endorsement; (b) an ocean pink shrimp
8 delivery license issued under RCW 77.65.390; (c) a Dungeness crab--
9 coastal fishery license issued under RCW 77.70.280; (d) a food fish
10 delivery license issued under RCW 77.65.200; or (e) a shrimp trawl
11 license under RCW 77.65.220, to repay the federal government for moneys
12 advanced by the federal government under a groundfish fleet reduction
13 program established by the federal government.

14 (2) The commission shall adopt a fee schedule by rule for the
15 collection of the fee required by subsection (1) of this section. The
16 fee schedule adopted shall limit the total amount of moneys collected
17 through the fee to the minimum amount necessary to repay the moneys
18 advanced by the federal government, but be sufficient to repay the debt
19 obligation of each fishery. The fee charged to the holders of a
20 Dungeness crab--coastal fishery license may not exceed two percent of
21 the total ex-vessel value of annual landings, and the fee charged to
22 all other eligible license holders may not exceed five percent of the
23 total ex-vessel value of annual landings. The commission may adjust
24 the fee schedule as necessary to ensure that the funds collected are
25 adequate to repay the debt obligation of each fishery.

26 (3) The commission shall deposit moneys collected under this
27 section in the commercial fisheries buyback account created in section
28 1 of this act.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 77.70 RCW
30 to read as follows:

31 The commission may not assess the fee specified under section 2 of
32 this act until after the federal government creates a groundfish fleet
33 reduction program.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 77.70 RCW
35 to read as follows:

1 Sections 2 and 3 of this act expire January 1, 2033, or when the
2 groundfish fleet reduction program referenced in section 2 of this act
3 is completed, whichever is sooner.

4 **Sec. 5.** RCW 77.70.280 and 2000 c 107 s 76 are each amended to read
5 as follows:

6 (1) A person shall not commercially fish for coastal crab in
7 Washington state waters without a Dungeness crab--coastal or a
8 Dungeness crab--coastal class B fishery license. Gear used must
9 consist of one buoy attached to each crab pot. Each crab pot must be
10 fished individually.

11 (2) A Dungeness crab--coastal fishery license is transferable.
12 Except as provided in subsections (3) and (8) of this section, such a
13 license shall only be issued to a person who proved active historical
14 participation in the coastal crab fishery by having designated, after
15 December 31, 1993, a vessel or a replacement vessel on the qualifying
16 license that singly or in combination meets the following criteria:

17 (a) Made a minimum of eight coastal crab landings totaling a
18 minimum of five thousand pounds per season in at least two of the four
19 qualifying seasons identified in subsection (5) of this section, as
20 documented by valid Washington state shellfish receiving tickets; and
21 showed historical and continuous participation in the coastal crab
22 fishery by having held one of the following licenses or their
23 equivalents each calendar year beginning 1990 through 1993, and was
24 designated on the qualifying license of the person who held one of the
25 following licenses in 1994:

- 26 (i) Crab pot--Non-Puget Sound license, issued under RCW
27 77.65.220(1)(b);
- 28 (ii) Nonsalmon delivery license, issued under RCW 77.65.210;
- 29 (iii) Salmon troll license, issued under RCW 77.65.160;
- 30 (iv) Salmon delivery license, issued under RCW 77.65.170;
- 31 (v) Food fish trawl license, issued under RCW 77.65.200; or
- 32 (vi) Shrimp trawl license, issued under RCW 77.65.220; or

33 (b) Made a minimum of four Washington landings of coastal crab
34 totaling two thousand pounds during the period from December 1, 1991,
35 to March 20, 1992, and made a minimum of eight crab landings totaling
36 a minimum of five thousand pounds of coastal crab during each of the
37 following periods: December 1, 1991, to September 15, 1992; December

1 1, 1992, to September 15, 1993; and December 1, 1993, to September 15,
2 1994. For landings made after December 31, 1993, the vessel shall have
3 been designated on the qualifying license of the person making the
4 landings; or

5 (c) Made any number of coastal crab landings totaling a minimum of
6 twenty thousand pounds per season in at least two of the four
7 qualifying seasons identified in subsection (5) of this section, as
8 documented by valid Washington state shellfish receiving tickets,
9 showed historical and continuous participation in the coastal crab
10 fishery by having held one of the qualifying licenses each calendar
11 year beginning 1990 through 1993, and the vessel was designated on the
12 qualifying license of the person who held that license in 1994.

13 (3) A Dungeness crab-coastal fishery license shall be issued to a
14 person who had a new vessel under construction between December 1,
15 1988, and September 15, 1992, if the vessel made coastal crab landings
16 totaling a minimum of five thousand pounds by September 15, 1993, and
17 the new vessel was designated on the qualifying license of the person
18 who held that license in 1994. All landings shall be documented by
19 valid Washington state shellfish receiving tickets. License
20 applications under this subsection may be subject to review by the
21 advisory review board in accordance with RCW 77.70.030. For purposes
22 of this subsection, "under construction" means either:

23 (a)(i) A contract for any part of the work was signed before
24 September 15, 1992; and

25 (ii) The contract for the vessel under construction was not
26 transferred or otherwise alienated from the contract holder between the
27 date of the contract and the issuance of the Dungeness crab-coastal
28 fishery license; and

29 (iii) Construction had not been completed before December 1, 1988;
30 or

31 (b)(i) The keel was laid before September 15, 1992; and

32 (ii) Vessel ownership was not transferred or otherwise alienated
33 from the owner between the time the keel was laid and the issuance of
34 the Dungeness crab-coastal fishery license; and

35 (iii) Construction had not been completed before December 1, 1988.

36 (4) A Dungeness crab--coastal class B fishery license is not
37 transferable. Such a license shall be issued to persons who do not
38 meet the qualification criteria for a Dungeness crab--coastal fishery

1 license, if the person has designated on a qualifying license after
2 December 31, 1993, a vessel or replacement vessel that, singly or in
3 combination, made a minimum of four landings totaling a minimum of two
4 thousand pounds of coastal crab, documented by valid Washington state
5 shellfish receiving tickets, during at least one of the four qualifying
6 seasons, and if the person has participated continuously in the coastal
7 crab fishery by having held or by having owned a vessel that held one
8 or more of the licenses listed in subsection (2) of this section in
9 each calendar year subsequent to the qualifying season in which
10 qualifying landings were made through 1994. Dungeness crab--coastal
11 class B fishery licenses cease to exist after December 31, 1999, and
12 the continuing license provisions of RCW 34.05.422(3) are not
13 applicable.

14 (5) The four qualifying seasons for purposes of this section are:

15 (a) December 1, 1988, through September 15, 1989;

16 (b) December 1, 1989, through September 15, 1990;

17 (c) December 1, 1990, through September 15, 1991; and

18 (d) December 1, 1991, through September 15, 1992.

19 (6) For purposes of this section and RCW 77.70.340, "coastal crab"
20 means Dungeness crab (cancer magister) taken in all Washington
21 territorial and offshore waters south of the United States-Canada
22 boundary and west of the Bonilla-Tatoosh line (a line from the western
23 end of Cape Flattery to Tatoosh Island lighthouse, then to the buoy
24 adjacent to Duntz Rock, then in a straight line to Bonilla Point of
25 Vancouver island), Grays Harbor, Willapa Bay, and the Columbia river.

26 (7) For purposes of this section, "replacement vessel" means a
27 vessel used in the coastal crab fishery in 1994, and that replaces a
28 vessel used in the coastal crab fishery during any period from 1988
29 through 1993, and which vessel's licensing and catch history, together
30 with the licensing and catch history of the vessel it replaces,
31 qualifies a single applicant for a Dungeness crab--coastal or Dungeness
32 crab--coastal class B fishery license. A Dungeness crab--coastal or
33 Dungeness crab--coastal class B fishery license may only be issued to
34 a person who designated a vessel in the 1994 coastal crab fishery and
35 who designated the same vessel in 1995.

36 (8) A Dungeness crab--coastal fishery license may not be issued to
37 a person who participates in the federal fleet reduction program
38 created in section 2 of this act within ten years of that person's

1 participation in the federal program, if reciprocal restrictions are
2 imposed by the states of Oregon and California on persons participating
3 in the federal fleet reduction program.

4 NEW SECTION. Sec. 6. RCW 77.70.380 (Dungeness crab-coastal
5 fishery licenses--Criteria for issuing new licenses) and 2000 c 107 s
6 82 & 1994 c 260 s 17 are each repealed.

Passed by the House March 13, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 9, 2003.

Filed in Office of Secretary of State May 9, 2003.